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C O N F I D E N T I A L ALGIERS 001259

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SUBJECT: FLN PROPOSED CONSTITUTIONAL CHANGES WOULD
STRENGTHEN PRESIDENTIAL POWER

Classified By: Ambassador Richard W. Erdman,
reasons 1.4 (b) and (d).

SUMMARY

¶1. (C) Post received an advance copy of proposed constitutional changes made by Algeria's predominant political party, the National Liberation Front (FLN). The document was recently submitted to President Bouteflika, who announced his intention July 5 to hold a national referendum on proposed amendments to the constitution by the end of the year. Exactly what will be submitted to the public for their approval is not yet known. The working document, despite many vague and haphazardly structured passages, proposes expanding presidential powers by downgrading the Prime Ministership to a coordinating role for the President's program, eliminating term limits, and offering past Presidents immunity from prosecution. At the same time, the document calls for greater checks and balances on executive power by strengthening the Conseil de la Nation (Algeria's Senate) and requiring executive-branch ministries to be more accountable to the National Assembly. Finally, the FLN proposal aims to establish a mechanism for smooth transition of power through the creation of the post of one or more Vice Presidents. A key factor to watch, in terms of Algeria's democratic evolution, will be whether open debate on the pros and cons of individual proposals will be permitted, or whether, as was the case with the referendum on the National Reconciliation Charter, the public will hear only dutiful pro-revision arguments on public television and radio and from all the presidential coalition parties. (End Summary.)

CONSOLIDATION OF EXECUTIVE POWERS

2.(C) The National Liberation Front (FLN), Algeria's largest political party, met for three days in late June to finalize its much anticipated proposal to amend the Algerian constitution. The FLN subsequently submitted the proposal to President Bouteflika for review. Bouteflika is not bound by any of the recommendations but is expected to incorporate many of them in outlining his proposed constitutional changes that would be subject to a national referendum by the end of the year.

¶3. (C) The most significant proposed changes would create a more purely presidential system. An FLN Senator told post's senior political FSN that the proposed constitution would essentially downgrade the current role of Head of Government, which carries with it an implicit degree of autonomy, to a Prime Ministership, charged with carrying out the President's

agenda. This would supplant a 1996 amendment to the Algerian Constitution by broadening presidential powers beyond national defense and foreign policy; rather than ceding control of other policies to his Prime Minister, the President would have primacy in all policy areas. Additional clauses call for the banning of presidential term limits (currently two five-year terms) and immunity from prosecution for former Presidents. FLN party leader Belkhadem, the current Head of Government, has long argued the need to move to a more clearly presidential system and to eliminate the Head of Government position as a potential rival to the President. In this regard, on assuming the Head of Government position in May, Belkhadem pointedly did not present his program to the National Assembly, noting that he was the "coordinator" of the President's program.

¶4. (C) Notably, the FLN proposal contains a provision that would establish the post of Vice President (or possibly a group of Vice Presidents) appointed by the President. While the language in the proposal is vague, it suggests that a Vice President would replace the President should he become incapacitated or die in office, although in the current text the Vice President would be barred from running for President in a subsequent election. Embassy contacts in the FLN said the role of Vice President would be largely honorary, as it would carry no defined powers or responsibilities as long as the President remained in power.

STRENGTHENING THE SENATE, OTHER CHECKS AND BALANCES

¶5. (C) The FLN proposal couples the strengthening of presidential power with some ostensible checks and balances on the executive. One amendment would require executive ministries to report on the status of their programs to the National Assembly. Another clause would allow the Algerian Senate to propose legislation rather than simply offering an up or down vote. The working document also suggests canceling Article 129, which allows the President to dissolve the National Assembly; he would, however, retain the right to call for early elections. Finally, the document proposes more stringent financial controls on government through the establishment of a Finance and Accounting Control Committee, which would have the ability to independently assert its view on the financial ramifications of proposed policies.

¶6. (C) The FLN document proposes amendments that would formally enshrine certain human rights and strengthen the autonomy of the Constitutional Council. Specifically, but with little detail, the proposal seeks to delineate Algerian citizens' rights pertaining to judicial representation, freedom to demonstrate, and freedom from government censorship. Specifically, it notes that non-judicial entities (a probable reference to the police) should not have the right to censor material. It also urges administrative and financial independence for Algeria's Constitutional Council (the body responsible for validating elections, providing official results, and serving as the guardian of the nation's laws). Under the FLN amendment, the term of Council members would be extended to seven years, and former Presidents of the Republic and of the Council would be accorded lifetime memberships in the body.

COMMENT

¶7. (C) While the FLN draft has "laid the groundwork," as noted by FLN contacts, for strengthening presidential powers, it is by no means the final proposal. Embassy contacts note that Bouteflika is simultaneously reviewing constitutional drafts from Foreign Minister Bedjaoui and Algerian Ambassador to France Sbih. While post is not privy to these drafts, FLN contacts told us that the most important proposals in the eyes of the President -- pertaining to the role of the Prime Minister, term limits, and the creation of a Vice President -- were included in the FLN proposal.

¶8. (C) Bouteflika has made clear for years his desire to

expand executive powers. Since his election in 1999, he has emphasized that he does not intend to serve as "three quarters of a President." In a country that has for decades balanced presidential power against that of the military, it is not by accident that Bouteflika announced his intention to amend the constitution at the headquarters of the Ministry of Defense. The push to downgrade the role of the Prime Minister can also be seen as a likely reaction to the quasi-independence of former Prime Minister Ouyahia, whose enthusiasm for Bouteflika's National Reconciliation plan was notably lukewarm. Current Prime Minister Belkhadem, on the other hand, has made it clear that he sees his sole role as implementing the policies of the President. FLN members have quipped to Embassy contacts that political developments in France -- i.e. Nicolas Sarkozy's ability to maintain a separate agenda from Chirac's, not to mention the Clearstream scandal -- are reason enough for strengthening the role of the chief executive vis-a-vis his ministers.

¶9. (C) The FLN proposal to allow the Senate to introduce new legislation, as well as receive powers of oversight over government spending and ministerial management, may be a step toward the creation of stronger checks and balances in Algeria. Outwardly, Bouteflika has made clear his desire to see the Senate evolve from its role in the 1990s (when it was created) to serve almost exclusively as a firewall against subsequent Islamist unrest. It therefore came as no surprise when the Algerian Senate, in a special plenary session July 8, approved a measure supporting the President's initiative. Nevertheless, some legislators maintain a degree of skepticism. A former FLN deputy involved in the 1996 constitutional revision, while commending the President's desire to "go into overtime" -- the World Cup is never far from the Algerian consciousness these days -- expressed strong reservations about the creation of a non-elected Vice President who could assume power.

ERDMAN